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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/028,094   | 10/25/2001  | Marc A. Konas        | 2001P20518 US            | 1099             |
| 7590   | 10/15/2004  |                      |                          |                  |
| Siemens Corporation<br>Intellectual Property Department<br>186 Wood Avenue South<br>Iselin, NJ 08830 |             |                      | EXAMINER<br>KHATRI, ANIL |                  |
|  |             |                      | ART UNIT                 | PAPER NUMBER     |
|  |             |                      | 2124                     |                  |

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                               |                                |  |
|------------------------------|-------------------------------|--------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/028,094 | Applicant(s)<br>KONAS, MARC A. |  |
|                              | Examiner<br>Anil Khatri       | Art Unit<br>2124               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/14/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Oath/Declaration***

Oath is missing. Applicant is required to furnish either a new oath or declaration in proper form, identifying the application by application number and filing date, or a certificate by the officer before whom the original oath was taken stating that the oath was executed within the jurisdiction of the officer before whom the oath was taken when the oath was administered. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

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reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1- 14 are rejected under 35 U.S.C. 102(e) as being anticipated by *Jystad* USPN 6,453,469.

Regarding claims 1, 4, 5, 7, 10, 11 and 14

*Jystad teaches,*

- a source of a plurality of application data elements suitable for updating a plurality of different target applications (see figure 5);
- a first processor for identifying and extracting selected application data elements from the source in response to user selection of a target application (column 5, lines 9-23, “the service center... by the server 22); and
- an output processor for mapping the extracted selected application data elements to corresponding file locations for replacement of corresponding data elements using mapping information associating the selected application data elements with file location data of the corresponding data elements (column 5, lines 26-50, “the download... product and services”).

Regarding claim 2

*Jystad teaches*

- initiating display of a menu' supporting user selection of a target application based on at least one of (a) target application identification code, (b) target application version code, and (c) target application geographical association (figure 1, column 5, lines 38-45, “based on the user profile... computer software and help files etc”).

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Regarding claims 3 and 9

*Jystad teaches*

- inhibiting replacement of corresponding data elements in response to at least one of (a) billing information, (b) user identification code, (c) user password, and (d) detection of a data element error (column 3, lines 37-41, “user data is used... other service”, lines 60-67, “the program contained in the first software... launch successfully”).

Regarding claim 6

*Jystad teaches,*

- wherein the source comprises at least one source file (see figure 1).

Regarding claim 8

*Jystad teaches,*

- first processor identifies and extracts selected application data elements in response to user selection of target application functions determined via a menu (column 4, lines 31-45, “once copied the play load... applications installed”).

Regarding claim 12

*Jystad teaches,*

- accessing an authorization process, identifying the target application computer to the authorization processor and making the extracted application data element available to the targeted application computer if the authorization processor approves the targeted application compute for installation of the extracted application data element (figures 1 and 5, “column 3, lines 37-41, “user data is used... other service”, lines 60-67, “the

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program contained in the first software... launch successfully”, (column 5, lines 9-23,  
“the service center... by the server 22).

Regarding claim 13

*Jystad teaches,*

- The authorization process approves targeted application computer using pre-determined authorization criteria (column 9, lines 53-67, “profile manager... user profile model”).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- USPN 6532543
- USPN 6609215

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri, Primary Examiner whose telephone number is 703-305-0282. The examiner can normally be reached on M-F 8:30-5:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

  
ANIL KHATRI  
PRIMARY EXAMINER